



# House of Representatives

General Assembly

**File No. 596**

*January Session, 2007*

House Bill No. 5214

*House of Representatives, April 26, 2007*

The Committee on Energy and Technology reported through REP. FONTANA, S. of the 87th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

***AN ACT AUTHORIZING THE COMMISSIONER OF ENVIRONMENTAL PROTECTION TO ENTER INTO LEASE AGREEMENTS FOR THE GENERATION OF HYDROELECTRICITY.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 22a-6 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2007*):

4 (a) The commissioner may: (1) Adopt, amend or repeal, in  
5 accordance with the provisions of chapter 54, such environmental  
6 standards, criteria and regulations, and such procedural regulations as  
7 are necessary and proper to carry out his functions, powers and duties;  
8 (2) enter into contracts with any person, firm, corporation or  
9 association to do all things necessary or convenient to carry out the  
10 functions, powers and duties of the department; (3) initiate and receive  
11 complaints as to any actual or suspected violation of any statute,  
12 regulation, permit or order administered, adopted or issued by him.  
13 The commissioner shall have the power to hold hearings, administer

14 oaths, take testimony and subpoena witnesses and evidence, enter  
15 orders and institute legal proceedings including, but not limited to,  
16 suits for injunctions, for the enforcement of any statute, regulation,  
17 order or permit administered, adopted or issued by him; (4) in  
18 accordance with regulations adopted by him, require, issue, renew,  
19 revoke, modify or deny permits, under such conditions as he may  
20 prescribe, governing all sources of pollution in Connecticut within his  
21 jurisdiction; (5) in accordance with constitutional limitations, enter at  
22 all reasonable times, without liability, upon any public or private  
23 property, except a private residence, for the purpose of inspection and  
24 investigation to ascertain possible violations of any statute, regulation,  
25 order or permit administered, adopted or issued by him and the  
26 owner, managing agent or occupant of any such property shall permit  
27 such entry, and no action for trespass shall lie against the  
28 commissioner for such entry, or he may apply to any court having  
29 criminal jurisdiction for a warrant to inspect such premises to  
30 determine compliance with any statute, regulation, order or permit  
31 administered, adopted or enforced by him, provided any information  
32 relating to secret processes or methods of manufacture or production  
33 ascertained by the commissioner during, or as a result of, any  
34 inspection, investigation, hearing or otherwise shall be kept  
35 confidential and shall not be disclosed except that, notwithstanding the  
36 provisions of subdivision (5) of subsection (b) of section 1-210, such  
37 information may be disclosed by the commissioner to the United States  
38 Environmental Protection Agency pursuant to the federal Freedom of  
39 Information Act of 1976, (5 USC 552) and regulations adopted  
40 thereunder or, if such information is submitted after June 4, 1986, to  
41 any person pursuant to the federal Clean Water Act (33 USC 1251 et  
42 seq.); (6) undertake any studies, inquiries, surveys or analyses he may  
43 deem relevant, through the personnel of the department or in  
44 cooperation with any public or private agency, to accomplish the  
45 functions, powers and duties of the commissioner; (7) require the  
46 posting of sufficient performance bond or other security to assure  
47 compliance with any permit or order; (8) provide by notice printed on  
48 any form that any false statement made thereon or pursuant thereto is

49 punishable as a criminal offense under section 53a-157b; (9) construct  
50 or repair or contract for the construction or repair of any dam or flood  
51 and erosion control system under his control and management, make  
52 or contract for the making of any alteration, repair or addition to any  
53 other real asset under his control and management, including rented  
54 or leased premises, involving an expenditure of five hundred thousand  
55 dollars or less, and, with prior approval of the Commissioner of Public  
56 Works, make or contract for the making of any alteration, repair or  
57 addition to such other real asset under his control and management  
58 involving an expenditure of more than five hundred thousand dollars  
59 but not more than one million dollars; (10) in consultation with  
60 affected town and watershed organizations, enter into a lease  
61 agreement with a private entity operating a facility constructed on or  
62 before January 1, 2007, to allow the private entity to generate  
63 hydroelectricity; (11) by regulations adopted in accordance with the  
64 provisions of chapter 54, require the payment of a fee sufficient to  
65 cover the reasonable cost of the search, duplication and review of  
66 records requested under the Freedom of Information Act, as defined in  
67 section 1-200, and the reasonable cost of reviewing and acting upon an  
68 application for and monitoring compliance with the terms and  
69 conditions of any state or federal permit, license, registration, order,  
70 certificate or approval required pursuant to subsection (i) of section  
71 22a-39, subsections (c) and (d) of section 22a-96, subsections (h), (i) and  
72 (k) of section 22a-424, and sections 22a-6d, 22a-32, 22a-134a, 22a-134e,  
73 22a-135, 22a-148, 22a-150, 22a-174, 22a-208, 22a-208a, 22a-209, 22a-342,  
74 22a-345, 22a-354i, 22a-361, 22a-363c, 22a-368, 22a-372, 22a-379, 22a-403,  
75 22a-409, 22a-416, 22a-428 to 22a-432, inclusive, 22a-449 and 22a-454 to  
76 22a-454c, inclusive, and Section 401 of the federal Clean Water Act, (33  
77 USC 1341). Such costs may include, but are not limited to the costs of  
78 (A) public notice, (B) reviews, inspections and testing incidental to the  
79 issuance of and monitoring of compliance with such permits, licenses,  
80 orders, certificates and approvals, and (C) surveying and staking  
81 boundary lines. The applicant shall pay the fee established in  
82 accordance with the provisions of this section prior to the final  
83 decision of the commissioner on the application. The commissioner

84 may postpone review of an application until receipt of the payment.  
85 Payment of a fee for monitoring compliance with the terms or  
86 conditions of a permit shall be at such time as the commissioner deems  
87 necessary and is required for an approval to remain valid; and [(11)]  
88 (12) by regulations adopted, in accordance with the provisions of  
89 chapter 54, require the payment of a fee sufficient to cover the  
90 reasonable cost of responding to requests for information concerning  
91 the status of real estate with regard to compliance with environmental  
92 statutes, regulations, permits or orders. Such fee shall be paid by the  
93 person requesting such information at the time of the request. Funds  
94 not exceeding two hundred thousand dollars received by the  
95 commissioner pursuant to subsection (g) of section 22a-174, during the  
96 fiscal year ending June 30, 1985, shall be deposited in the General Fund  
97 and credited to the appropriations of the Department of  
98 Environmental Protection in accordance with the provisions of section  
99 4-86, and such funds shall not lapse until June 30, 1986. In any action  
100 brought against any employee of the department acting within his  
101 scope of delegated authority in performing any of the above-listed  
102 duties, the employee shall be represented by the Attorney General.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2007	22a-6(a)
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**ET**            *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

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***OFA Fiscal Note***

***State Impact:*** See Below

***Municipal Impact:*** None

***Explanation***

Any potential increase in the administrative workload of the Department of Environmental Protection (DEP) incurred from entering into a lease agreement with a private entity for hydroelectricity is anticipated to be minimal and handled within existing agency resources. Any potential revenue gain to the state would depend upon the parameters of the lease agreement and is anticipated to be minimal.

***The Out Years***

None

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**OLR Bill Analysis****sHB 5214*****AN ACT AUTHORIZING THE COMMISSIONER OF ENVIRONMENTAL PROTECTION TO ENTER INTO LEASE AGREEMENTS FOR THE GENERATION OF HYDROELECTRICITY.*****SUMMARY:**

This bill expands the environmental protection commissioner's authority by allowing her to enter into lease agreements with private entities to allow them to generate hydroelectricity. But she (1) may enter into such agreements only with private entities operating facilities built on or before January 1, 2007 and (2) must first consult with affected town and watershed organizations. The bill does not define facilities, but apparently refers to hydroelectric facilities.

EFFECTIVE DATE: October 1, 2007

**BACKGROUND*****Legislative History***

On April 3 the House referred the bill (File 155) to the Energy and Technology Committee, which reported a substitute (1) limiting the commissioner's ability to enter into such agreements to entities operating facilities built on or before January 1, 2007 and (2) requiring the commissioner to consult with affected town and watershed organizations.

***Related Bill***

sHB 7098 allows the commissioner to enter into lease agreements with private entities, in consultation with affected towns and watershed organizations, to allow the private entities to generate hydroelectricity.

**COMMITTEE ACTION**

Environment Committee

Joint Favorable

Yea 31 Nay 0 (03/14/2007)

Energy and Technology Committee

Joint Favorable Substitute

Yea 21 Nay 0 (04/11/2007)